HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.481/2020

Smt. Rexona Debbarma

----Petitioner(s)

Versus

The State of Tripura & others

-----Respondent(s)

For Petitioner(s) : Mr. Kawsik Nath, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharjee, G.A.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

Order

19/11/2020

Rule.

Learned Government Advocate Mr. Debalay Bhattacharjee waived rule on behalf of the respondents.

The short facts of the case are that the petitioner is a married daughter of deceased Krishnapada Debbarma who died on 03.09.2017 while in service. He was holding a post of Constable of Special Branch under the office of Superintendent of Police, Kamalpur, Dhalai District. The petitioner applied for appointment on compassionate grounds under the die-in-harness scheme framed by the State Government. Her application was rejected by the impugned order dated 07.07.2018 in following terms:

"Please refer your application dated 30-11-2017 for providing Government job under the Die-in-harness Scheme, on the basis of which one proposal was initiated to PHQ (Police Head Quarters) supported by all relevant papers/documents.

In this connection, the observation of PHQ is reproduced below:-

> *"On scrutiny of document it is found that Smti Rexona Debbarma, D/o. Late Krishnapada Debbarma (Ex-Constable) is a married daughter. Hence, as per GA (P&T) Deptt. Govt of Tripura vide Memo No.F.1(2)-GA (P&T)/15 dated 19-05-2017, married daughter under any circumstances shall not come under the purview of Die-in-harness Scheme. So, the proposal of Smti Rexona Debbarma for Govt job cannot be considered under die-in-harness scheme."*

This is for favour of information please."

Thus the only ground on which the petitioner's application for compassionate appointment came to be dismissed was that as per the die-in-harness scheme of the Government married daughter under no circumstances would fall within the purview of the said scheme. Learned counsel for the petitioner, however, correctly pointed out that this Court in case of ***Smt. Debashri Chakraborty vs. The State of Tripura & others*** in

WP(C) No.562 of 2019 decided on 18.12.2019 has struck down the said portion of the die-in-harness scheme and further held and observed as under:

> "23. In view of such decisions of various High Courts across the country and almost unanimity of opinion on the issue, I have no hesitation in holding that the following portion of the notification dated 19.05.2017 is unconstitutional:
>
> "Married daughter(s) under any circumstances shall not come under the purview of Die-in-harness Scheme."
>
> 24. Consequently, it is declared that the scheme of die-in-harness formulated by the State under notification dated 26.12.2015 as modified and clarified under notification dated 19.05.2017 would not exclude a married daughter from the purview of the scheme. In other words, even a married daughter would be entitled to make an application for appointment on compassionate basis which would be decided on its own merits within the parameters of the scheme. Resultantly, impugned order dated 11.02.2019 is set aside. The respondents are directed to consider the application of the petitioner afresh and dispose it of on merits. This shall be done within a period of 4(four) months from today."

In view of the said position, impugned order dated 07.07.2018 is set aside. Since the respondents had not considered the case of the petitioner on merits, let the authority decide the application of the petitioner

in terms of the scheme. This exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

Petition is disposed of accordingly.

(AKIL KURESHI), CJ

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HIGH COURT OF TRIPURA
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